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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/963,499	09/27/2001	Eiichi Nishimura	31869-174988	8830

7590 10/04/2005
RABIN & BERDO, P.C.
1101 14TH STREET, N.W.
SUITE 500
WASHINGTON, DC 20005

EXAMINER

BRINEY III, WALTER F

ART UNIT	PAPER NUMBER
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2646

DATE MAILED: 10/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/963,499

Applicant(s)

NISHIMURA, EIICHI

Examiner

Walter F. Briney III

Art Unit

2646

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 20 September 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.

BY

Continuation of 11. does NOT place the application in condition for allowance because: With respect to claim 13, the applicant alleges on pages 4 and 5 of the current response that claim 13 distinguishes over the applied art by comparing the transmit and receive signals to a pair of thresholds, instead of to each other; the examiner respectfully disagrees. In particular, claim 13 recites, inter alia, "an echo cancellation signal generator updating filter coefficients when the transmit signal is less than a first minimum input level and the receive signal exceeds a second minimum input level," which does suggest comparing the transmit and receive signals to thresholds, however, it does not place any limitation on how the comparison is made or how the level thresholds are chosen. Regarding Lane and Li, it was shown that Lane and Li provide similar voice activity detection thresholds (figure 4 of Lane and figure 4 of Li), however, Lane did not teach how to make the comparison, and therefore, Li was relied upon for the exact calculations. As seen in figure 7 of Li, the transmit signal and the receive signal are compared, however, the comparison is tilted based on the values of α_1 and α_2 , which represent the slopes TT and TR, respectively. In this way, a discrete value on either line TT or TR is chosen as a threshold on the basis of the value of the receive signal or transmit signal, respectively. The transmit and receive signals are then compared to the discrete points. It follows that lines TT and TR define a set of minimum input levels.

With respect to claim 9, the applicant alleges on page 5 of the current response that Lane teaches one of three AGC modes that operate continuously and that when "no gain" is selected the variable gain G is still updated; the examiner respectfully disagrees. In particular, the applicant has failed to disclose where Lane actually recites updating G in any state besides the "talk" state. To the contrary, Lane discloses in column 5, lines 21-22, that G is updated during the "talk" mode. The other two modes, "listen" and "double-talk", described by Lane do not include such a statement. Thus, the applicant's argument is moot.

With respect to the clarification request, the examiner's previous comment was referring to the fact that the value G, as defined by Lane, has been mapped in the context of the rejection of claim 9 to the claim element "signal level data." In other words, Lane defines a value G that corresponds to the recited "signal level data." Furthermore, contrary to the applicant's allegation that G is updated, G is unchanged during any state besides the "talk" state. This is evidenced in column 5, lines 21-22, and the remaining sections of column 5 that define the operation of the "listen" and "double-talk" states since neither of those states perform AGC, which is the process used to update G.



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SUPERVISORY PATENT EXAMINER